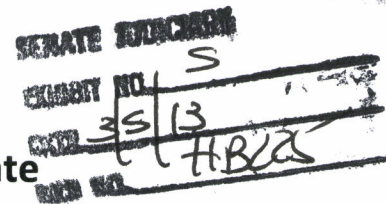




## Issue Brief:

# Revise Pre- and Post-Judgment Interest Rate



**Bill Number:** HB 225

**Sponsor:** Rep. Cary Smith

**Contact:** Glenn Oppel, Government Relations Director  
431-3685; glenn@montanachamber.com

**Background:** Plaintiffs in Montana who win favorable verdicts are usually entitled to recover interest on the damages awarded. Some of this is in the form of post-judgment interest, which is meant to compensate a plaintiff for the loss of the use of the money while a defendant appeals a judgment. Plaintiffs may also be awarded pre-judgment interest, which in Montana begins to accrue thirty days after a claimant has presented a written statement with the sum of damages claimed to an opposing party.

Montana last established the interest rate back in 1985 at 10 percent. Unless otherwise agreed to by the parties in contract, that is the interest rate applied to awarded damages. In the 2011 Legislature, the Chamber proposed HB 341, which set the rate at the prime rate plus two percentage points. The bill passed the House and Senate but was vetoed by the Governor.

About half of the states have opted to base their judgment interest rate in some way on a fluctuating market rate instead of a flat rate.

**Problem:** A rate of 10 percent vastly exceeds today's prevailing market interest rates. It is unfair to require a defendant to pay rates far above the market rate, and above market rates discourage defendants from appealing a judgment. In light of current interest rates, pre- and post-judgment interest requirements are providing a windfall to plaintiffs.

**Chamber Solution:** Montana should join the numerous states that have opted to base their judgment interest rate on a market rate instead of a flat rate. HB 225 provides a fair, reasonable, and predictable fix to Montana's unconscionably high pre- and post-judgment rate by *setting the rate equal to the prime rate set by the Federal Reserve system plus two percentage points*. By tying the legal rate of interest to the federal reserve discount rate, the Legislature will ensure that parties do not contract at an unconscionable rate and that interest awards are fair, reasonable, and consistent.